



Commissioner's Advisory No. 2 Guidance for Homebuyers

Released April 2, 2008

The Department of Real Estate is a resource for consumers and industry professionals.

Most Arizona homebuilders continue to meet obligations to their customers. This advisory provides guidance to homebuyers who have questions if a homebuilder fails to meet commitments. Much of this information is applicable for homebuyers in the resale market also. If you need additional help, please contact our Customer Assistance Team at (602) 771-7730 or CAT@azre.gov. This Commissioner's Advisory is informational only and is not intended as legal advice.

Removing Liens that appear after closing

1. Contact your homebuilder. A lien could have been filed erroneously or the builder may have withheld payment to a subcontractor for incomplete or substandard work in the subdivision.
2. If you purchased a resale home or the homebuilder is not helpful, continue below with other options.
3. Review your title insurance policy for protection against liens. Contact your title insurer for assistance.
4. Contact the Registrar of Contractors at www.AZROC.gov or 1-877-692-0762 (1-877-myazroc). They regulate licensed contractors and may be able to help.
5. Contact your lender. If a mortgage was used to purchase the property, an ALTA Lender's Title Insurance Policy was likely issued which may offer protection against these liens.

Fixing home and infrastructure defects and using warranties

1. You may file a complaint with the Registrar of Contractors within two years of work being completed in a dwelling. Visit www.AZROC.gov for more information or call 1-877-692-0762 (1-877-myazroc).
2. The homebuilder may have provided a construction warranty through a separate company. Check your closing documents for warranty information, coverage and who to contact.
3. Check your documents for subcontractor information and contact them for available warranty coverage.
4. If a defect is infrastructure related such as roads, sidewalks or drainage, contact your local jurisdiction's public works or development services department.
5. If vacant homes or lots are causing blight in your neighborhood, contact your HOA or local jurisdiction's code enforcement department. The current owner may be responsible to maintain the properties to community standards.

Earnest Deposits and Prepaid Money

1. Refer to your purchase contract regarding protection of prepaid money. The purchase contract will tell you if your money is protected in a neutral escrow account or if it was placed in the builder's general account where the builder can use it.
2. The purchase contract should describe if and when earnest money or prepayments are refundable.
3. Visit the Registrar of Contractors at www.AZROC.gov or call 1-877-692-0762 (1-877-myazroc). You may be able to access their Recovery Fund if a project is abandoned.



Commissioner's Advisory No. 2 Guidance for Homebuyers

Released April 2, 2008

The Department of Real Estate is a resource for consumers and industry professionals.

Most Arizona homebuilders continue to meet obligations to their customers. This advisory provides guidance to homebuyers who have questions if a homebuilder fails to meet commitments. Much of this information is applicable for homebuyers in the resale market also. If you need additional help, please contact our Customer Assistance Team at (602) 771-7730 or CAT@azre.gov. This Commissioner's Advisory is informational only and is not intended as legal advice.

Homes under construction or waiting to close escrow

1. Read your purchase contract to determine available remedies.
2. Contact the Department of Real Estate at 602-771-7730 or CAT@azre.gov. We may be able to assist you in working with the bank or new investors to complete your home and close on it.

Requesting an Investigation / Filing a Complaint

1. Department of Real Estate. Individuals may request an investigation by the Department if homebuilders or real estate licensees are believed to have violated real estate statutes or commissioner's rules. Please visit www.AZRE.gov for instructions on filing a complaint or contact us at 602-771-7730 or CAT@AZRE.gov.
2. Registrar of Contractors. A buyer of a dwelling has the right to file a written complaint against a licensed contractor with the Arizona Registrar of Contractors within two years of occupancy or close of escrow. Visit www.AZROC.gov for instructions on filing a complaint or contact them at 1-877-692-0762 (1-877-myazroc).

Financial Restitution

Real Estate Recovery Fund

1. This fund was established in 1963 for the benefit of consumers who suffer an actual and direct out-of-pocket loss due to a licensed real estate agent or broker violating real estate laws or commissioner's rules in a real estate transaction.
2. If an Arizona real estate agent or broker was involved in your purchase of Arizona real estate, you may be eligible for financial restitution.
3. A court judgment indicating the financial loss must accompany the application along with other items.
4. Please visit www.AZRE.gov for additional information and application procedures or contact the Recovery Fund Administrator at 602-771-7760 or recovery_fund@AZRE.gov



Commissioner's Advisory No. 2 Guidance for Homebuyers

Released April 2, 2008

The Department of Real Estate is a resource for consumers and industry professionals.

Most Arizona homebuilders continue to meet obligations to their customers. This advisory provides guidance to homebuyers who have questions if a homebuilder fails to meet commitments. Much of this information is applicable for homebuyers in the resale market also. If you need additional help, please contact our Customer Assistance Team at (602) 771-7730 or CAT@azre.gov. This Commissioner's Advisory is informational only and is not intended as legal advice.

Financial Restitution (continued)

Condominium Recovery Fund

1. This fund was established in 2007 for the benefit of real estate consumers who purchased a condominium that was not completed by the developer.
2. A court judgment indicating the financial loss must accompany the application along with other requirements.
3. Please visit www.AZRE.gov for additional information and application procedures or contact the Recovery Fund Administrator at 602-771-7760 or recovery_fund@AZRE.gov

Registrar of Contractors Recovery Fund

1. This fund was established for a "person injured" due to poor workmanship or non-performance by a licensed residential contractor.
2. A request to this Recovery Fund must be commenced within two years from the commission of the act of the contractor, the cause of the injury, or from the date of occupancy.
3. The homeowner can pursue the fund by way of the administrative procedure or the civil procedure.
4. Visit www.AZROC.gov for instructions on filing an application or contact the Registrar of Contractors at 1-877-692-0762 (1-877-myazroc).

Seek Legal Counsel

The Arizona Bar Association has a list of Real Estate Certified specialists. Contact them at:
State Bar of Arizona, 4201 N. 24th Street, Phoenix, AZ 85016-6288
Phone: 602- 252-4804 / 1-866-482-9227 (toll free outside of Maricopa County) www.AZBAR.org